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1995/07/09

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PAGE 01 OF 02 STATE 162263 090622Z 047700 5005119
ORIGIN: CM (05)

INFO: (04) TB (02) PMS (02) K (03) P (01) RA (01) EAP (04)
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INFO: DB COR-01 AMAD-01 CA-02 CIAE-00 SMEC-00 INL-01
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DR: RY, AP/CM: JJFOARDE/ACOLE
AP: AP/CM: WLOD
E: AP/CM: WASTANTON
E: AP/CM: RLEVINSON
E: AP/CM: SSPENCER
E: AP/CM: DULLY
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FM SI: WASHDC
TO: TOKYO IMMEDIATE 9962-3
AMEMB: BANGKOK 6846-7
AMEMB: SINGAPORE
AMEMB: JAL 8829-30
AMEMB: KARTA 5005-6
AMEMB: MANILA
AMEMB: MALA LUMPUR 2170-1
AMEMB: HELSINKI 1151-2
AMEMB: STOCKHOLM 3596-7
AMEMB: OSLO 4940-1
AMEMB: COPENHAGEN 1310-1
INFO AMEMB: BEIJING 5722-3
AMCONS: SHANGHAI 3560-1
AMCONS: SHENYANG 4361-2
AMCONS: HONG KONG
AMCONS: GUANGZHOU 6479-00

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CORRECTED COPY (DTG AND HEADER)

E.O. 1.05 SE DECL: OADR
TAGS: 1.05 PASC, CH, US
SUBJ: HARRY WU DETENTION CASE: REQUEST FOR PARALLEL
HOST GOVERNMENT DEMARCHES TO BEIJING ON CONSULAR ACCESS TO
DETAINED CITIZENS

1. CONFIDENTIAL -- ENTIRE TEXT. THIS IS AN ACTION
MESSAGE.

2. ACTION REQUESTED: DEPARTMENT REQUESTS THAT ADDRESSEES
CONTACT THEIR GOVERNMENTS AT THE HIGHEST APPROPRIATE LEVEL
TO DEVELOP THE DEMARCHE OUTLINED IN PARAGRAPH 5 BELOW.
POSTS MAY WISH TO LEAVE THE TALKING POINTS WITH
INITIALS AS A NON-PAPER. ADDRESSEES SHOULD ALSO SEEK
TO ELICIT HOST GOVERNMENTS' EXPERIENCE WITH THE PRC ON
CONSULAR MATTERS GENERALLY, AND ON CONSULAR ACCESS TO
DETAINED CITIZENS IN PARTICULAR. PLEASE REPORT REACTION
TO THIS MESSAGE AND INQUIRY ON CONSULAR EXPERIENCE ASAP
INCLUDING REPLY FOR EAP/CM, L/EAP AND CA/OCS.

3. BACKGROUND: HARRY WU, AKA PETER H. WU, A WELL-KNOWN
INMATE OF CHINA'S PRISON SYSTEM FOR MANY YEARS AND NOW AN

STATE 162263 090622Z 047700 5005119
AMERICAN CITIZEN, WAS DETAINED BY CHINESE AUTHORITIES WHEN
CROSSING THE BORDER FROM KAZAKHSTAN INTO CHINA ON JUNE 12

1995. MR. WU AND ANOTHER AMERICAN TRAVELLING COMPANION
WERE DETAINED AT HORGAS IN XINJIANG PROVINCE FROM JUNE 19
UNTIL THE MORNING OF JUNE 23, WHEN MR. WU'S COMPANION WAS
EXPULSED FROM CHINA. MR. WU HAS NOT BEEN HEARD FROM
SINCE. THE CHINESE GOVERNMENT PROVIDED THE REQUISITE
CONSULAR NOTIFICATION OF DETENTION ON JUNE 23, BUT HAVE

SINCE REFUSED TO GRANT CONSULAR ACCESS UNDER OUR BILATERAL
CONSULAR AGREEMENT. TO MANY DEMARCHES IN BOTH BEIJING AND
WASHINGTON, CHINESE OFFICIALS HAVE REPLIED ONLY THAT WU IS
"UNDER INVESTIGATION" FOR VIOLATIONS OF CHINESE LAW DURING
PREVIOUS VISITS TO CHINA. CHINESE REFUSAL TO GRANT
CONSULAR ACCESS IS A CLEAR VIOLATION OF THE BILATERAL
CONSULAR AGREEMENT, WHICH PROVIDES FOR ACCESS TO DETAINED
CITIZENS WITHIN 48 HOURS OF A REQUEST. CONGRESSIONAL
PRESS AND POPULAR INTEREST IN MR. WU'S CASE HAS BEEN
SUBSTANTIAL.

4. THE DEPARTMENT PROPOSES TO AUGMENT ITS BILATERAL
EXPRESSIONS OF GRAVE CONCERN TO THE CHINESE OVER THEIR
HANDLING OF THE WU CASE WITH APPROACHES BY OTHER CONCERNED
COUNTRIES ON THE SPECIFIC QUESTION OF CONSULAR ACCESS TO
NATIONALS. THE UNITED STATES BELIEVES THAT ALL COUNTRIES
HAVE AN INTEREST IN CHINESE COMPLIANCE WITH BOTH
INTERNATIONAL CONVENTIONS SUCH AS THE VIENNA CONVENTION ON
CONSULAR RELATIONS AND BILATERAL CONSULAR CONVENTIONS,
WHERE THEY EXIST. THUS, THE UNITED STATES HOPES THAT HOST
COUNTRIES WILL INSTRUCT THEIR AMBASSADORS IN BEIJING TO
RAISE WITH CHINESE INTERLOCUTORS AT AN APPROPRIATE LEVEL
THE IMPORTANCE OF PROMPT CONSULAR ACCESS, AS WELL AS THE
DESIRABILITY OF STRICT ADHERENCE TO THE PROVISIONS OF
CONSULAR CONVENTIONS AND AGREEMENTS. IF POSSIBLE, THE
DEPARTMENT WOULD WELCOME HOST GOVERNMENTS CONVEYING A MORE
SPECIFIC MESSAGE ABOUT THE UNACCEPTABILITY OF DELAYING
CONSULAR ACCESS IN THE CASE OF HARRY WU. ADDRESSEES MAY
DRAW ON THE TALKING POINTS IN PARAGRAPH FIVE BELOW IN
DEMARCHING HOST GOVERNMENTS.

IN ADDITION, DEPARTMENT WOULD WELCOME KNOWING HOST
GOVERNMENTS' EXPERIENCE WITH THE PRC WITH RESPECT TO
CONSULAR OBLIGATIONS, WHETHER UNDER INTERNATIONAL
CONVENTIONS OR BILATERAL AGREEMENTS. IN SEEKING TO ELICIT
THIS INFORMATION, POSTS MAY NOTE THAT, IN GENERAL THE PRC
HERETOFORE HAS BEEN REASONABLY GOOD ABOUT HONORING ITS
CONSULAR OBLIGATIONS TO THE UNITED STATES.

6. BEGIN TALKING POINTS

-- AMERICAN CITIZEN HARRY WU (ALSO KNOWN AS PETER H. WU)

HAS BEEN DETAINED IN CHINA SINCE JUNE 19 EVIDENTLY IN THE
BORDER TOWN OF HORGAS IN XINJIANG PROVINCE.

-- THE CHINESE NOTIFIED OUR EMBASSY IN BEIJING OF THE
DETENTION ON JUNE 23, WITHIN THE 4-DAY LIMIT STIPULATED IN
THE U.S.-CHINA BILATERAL CONSULAR CONVENTION OF 1960

-- OUR CONSUL GENERAL IN BEIJING REQUESTED A STATUS
REPORT, ENUMERATION OF ANY CHARGES LODGED AGAINST WU, AND
AGREEMENT FOR A CONSULAR VISIT FROM THE CHINESE FOREIGN
MINISTRY ON MONDAY, JUNE 26.

-- WE HAVE HAD SUBSEQUENT MEETINGS WITH THE FOREIGN
MINISTRY CONSULAR AFFAIRS BUREAU. THE RESULTS OF THESE
MEETINGS HAVE BEEN INCONCLUSIVE AND UNSATISFACTORY

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PAGE 02 OF 02 STATE 162263 850522Z

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-- THE CHINESE SIDE HAS INFORMED US THAT THE REQUEST FOR CONSULAR VISIT TO MR. WU IS STILL UNDER CONSIDERATION BUT HAS NOT BEEN APPROVED. MR. WU'S PRECISE LOCATION AND

CONDITION HAVE NOT BEEN DISCLOSED. WE HAVE NOT BEEN INFORMED OF ANY FORMAL CHARGES OR OF MR. WU'S IMMEDIATE RELEASE OR DEPORTATION. GIVEN THE TIME THAT HAS ELAPSED THESE RESPONSES ARE UNACCEPTABLE

-- ACCORDING TO ARTICLE 35 OF THE U.S.-CHINA BILATERAL CONSULAR CONVENTION, A CONSULAR VISIT SHALL TAKE PLACE AS SOON AS POSSIBLE, BUT, AT THE LATEST, SHALL NOT BE REFUSED AFTER 7 DAYS FROM THE DATE ON WHICH EITHER GOVERNMENT NOTIFIES THE OTHER OF A DETENTION

-- WE BELIEVE ALL COUNTRIES HAVE AN INTEREST IN PROMPT CONSULAR ACCESS TO NATIONALS DETAINED IN OTHER COUNTRIES AS CONTEMPLATED BY SUCH INTERNATIONAL CONVENTIONS AS THE VIENNA CONVENTION ON CONSULAR RELATIONS BILATERAL CONSULAR AGREEMENTS, OR CUSTOMARY INTERNATIONAL LAW AND PRACTICE.

-- OUR SPECIFIC CONCERN FOR MR. WU IS GREAT BUT WE ARE ALSO GRAVELY CONCERNED ABOUT THE IMPLICATIONS OF CHINESE VIOLATION OF OUR BILATERAL CONSULAR CONVENTION. THE UNITED STATES AND CHINA ARE ALSO PARTIES TO THE MULTILATERAL VIENNA CONVENTION ON CONSULAR RELATIONS ARTICLE 36 OF WHICH PROVIDES FOR CONSULAR ACCESS TO DETAINED OR ARRESTED NATIONALS

-- THE UNITED STATES WOULD WELCOME YOUR GOVERNMENT INSTRUCTING YOUR AMBASSADOR TO REQUEST TO DEMAND THE CHINESE GOVERNMENT EXPRESSING SIMILAR CONCERNS ABOUT THE

SPECIFIC ISSUE OF CONSULAR ACCESS.

-- THE UNITED STATES WOULD ALSO WELCOME YOUR GOVERNMENT'S RAISING THE CASE OF HARRY WU IN THIS CONTEXT, PERHAPS SUGGESTING THAT CHINA'S HANDLING OF THE CASE RAISES QUESTIONS ABOUT CHINESE COMMITMENT TO HONORING INTERNATIONAL CONSULAR PRACTICE AND RESPECT TO HUMAN RIGHTS NATIONALS.

-- THE UNITED STATES APPRECIATES ANY HELP YOU CAN OFFER UNDERSCORING WITH THE CHINESE THE VITAL IMPORTANCE OF HONORING INTERNATIONAL OBLIGATIONS ON CONSULAR MATTERS

END TALKING POINTS.

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